

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

**PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE THE TESTIMONY OF
ALL DEFENDANTS' EXPERT WITNESSES OTHER THAN DR. GIBBONS
CONCERNING THE FDA ALERT AND RELATED FDA SUBJECTS, OR,
IN THE ALTERNATIVE, TO EXCLUDE THE TESTIMONY OF DR. GIBBONS**

Plaintiff Ruth Smith, as the Widow for the use and benefit of herself and the next of kin of Richard Smith, deceased, by and through her undersigned counsel, respectfully requests an order excluding the testimony of all of Defendants' expert witnesses other than Dr. Robert D. Gibbons concerning the FDA Alert and related FDA subjects, or, in the alternative, excluding the testimony of Dr. Gibbons.

This Motion is supported by the Memorandum in Support, and the Declaration of Kenneth B. Fromson, Esq. and exhibits annexed thereto, submitted herewith.

Dated: April 16, 2010

Respectfully submitted,

THE LANIER LAW FIRM, P.L.L.C.

By: /s/ W. Mark Lanier
W. Mark Lanier, Esq.
Dara G. Hegar, Esq.
Ken S. Soh, Esq.
Maura Kolb, Esq.
Robert Leone, Esq.
126 East 56th Street, 6th Floor
New York, NY 10022

- and -

FINKELSTEIN & PARTNERS, LLP

By: /s/ Andrew G. Finkelstein
Andrew G. Finkelstein, Esq.
Kenneth B. Fromson, Esq.
1279 Route 300, P.O. Box 1111
Newburgh, NY 12551

- and -

BARRETT & ASSOCIATES, P.A.

By: /s/ Charles F. Barrett
Charles F. Barrett, Esq.
BPR # 020627
6518 Highway 100, Suite 210
Nashville, TN 37205

Attorneys for Plaintiff Ruth Smith

CERTIFICATE OF SERVICE

I hereby certify that on this the 16th day of April, 2010, I electronically filed the foregoing document with the Clerk of the Court, United States District Court for the Middle District of Tennessee, using the CM/ECF system. True and correct copies of the foregoing documents are being served via the Court's CM/ECF system on the following:

Aubrey B. Harwell, Jr., Esq.

W. David Bridgers, Esq.

Gerald D. Neenan, Esq.

Robert A. Peal, Esq.

Neal & Harwell, PLC

2000 One Nashville Place

150 Fourth Avenue, North

Nashville, TN 37219

Prince C. Chambliss, Jr., Esq.

Evans & Petree, PC

1000 Ridgeway Loop Road, Suite 200

Memphis, TN 38120

Mark S. Cheffo, Esq.

Catherine B. Stevens, Esq.

Skadden, Arps, Slate, Meagher & Flom LLP

Four Times Square

New York, NY 10036

/s/ Kenneth B. Fromson

Kenneth B. Fromson